

AO 91 (Rev. 08/09) Criminal Complaint

## UNITED STATES DISTRICT COURT

for the

Northern District of New York

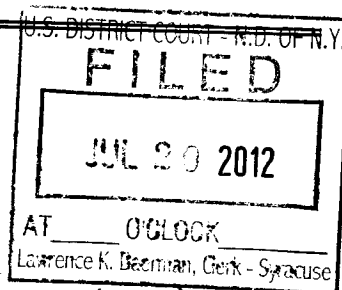
United States of America

v.

MICHAEL LOMBARDO

Defendant(s)

Case No. 5 12-MJ-



354 (ATB)

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of \_\_\_\_\_ see below \_\_\_\_\_ in the county of \_\_\_\_\_ Oneida \_\_\_\_\_ in the  
Northern \_\_\_\_\_ District of \_\_\_\_\_ New York \_\_\_\_\_, the defendant(s) violated:

## Code Section

Title 18, United States Code,  
Section 2251(a).

## Offense Description

Count 1: On or about 2011, did employ, use, persuade, induce, entice, or coerce a person under the age of eighteen, to engage in sexually explicit conduct, for the purpose of producing visual depictions of such conduct, knowing or having reason to know that such visual depictions would be transported or transmitted using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce, were produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, and were actually transported and transmitted using a means and facility of interstate and foreign commerce and in and affecting such commerce.

Title 18, United States Code,  
Section 2252A(a)(2)(A)

Count 2: On or about 2011 did knowingly receive child pornography using a means and facility of interstate and foreign commerce, and in and affecting such commerce.

Title 18, United States Code,  
Section 2251(a)

Count 3: On or about January 2011 to December 2011, did employ, use, persuade, induce, entice, or coerce a person under the age of eighteen, to engage in sexually explicit conduct, for the purpose of producing visual depictions of such conduct, knowing or having reason to know that such visual depictions would be transported or transmitted using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce, were produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, and were actually transported and transmitted using a means and facility of interstate and foreign commerce and in and affecting such commerce.

Title 18, United States Code,  
Section 2252A(a)(2)(A)

Count 4: On or about January 2011 to December 2011, did knowingly receive child pornography using a means and facility of interstate and foreign commerce, and in and affecting such commerce.

This criminal complaint is based on these facts:

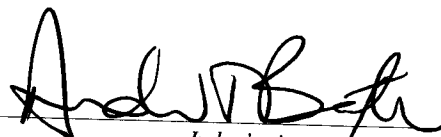
X Continued on the attached sheet.

  
Complainant's signature

Alix Skelton, Special Agent  
Printed name and title

Sworn to before me and signed in my presence.

Date: Jul 20, 2012

  
Judge's signature

City and state: Syracuse, NY

Hon. Andrew T. Baxter, U.S. Magistrate Judge  
Printed name and title

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF NEW YORK

\*\*\*\*\*

UNITED STATES OF AMERICA

v.

MICHAEL LOMBARDO

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AFFIDAVIT IN SUPPORT OF A COMPLAINT

Alix Skelton, being duly sworn, deposes and states as follows:

1. I am a Special Agent (SA) with the Federal Bureau of Investigation (FBI). I have been so employed for seven months and am currently assigned to the Albany Division, Syracuse Resident Agency. While employed by the FBI, I have investigated federal criminal violations relating to cybercrime, child exploitation, and child pornography. I have gained experience through training by the FBI and everyday work relating to conducting these types of investigations.
2. As a federal agent, I am authorized to investigate violations of United States laws and to execute warrants issued under the authority of the United States.
3. I am submitting this affidavit in support of a criminal complaint and arrest warrant charging MICHAEL LOMBARDO with violations of Title 18, United States Code, Sections 2251(a): employing, using, persuading, inducing, enticing or coercing a person under the age of eighteen, to engage in sexually explicit conduct, for the purpose of producing visual depictions of such conduct, knowing or having reason to know that such visual depictions would be transported or transmitted using any means or facility of interstate or foreign commerce or in or affecting interstate commerce or foreign commerce, were produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, and were actually transported and transmitted using a means and facility of interstate and foreign commerce and in and affecting such commerce; and 2252A(a)(2)(A): and has knowingly received child pornography using a means and facility of interstate and foreign commerce, and in and affecting such commerce.
4. The statements contained in this Affidavit are based on my experience and background as a criminal investigator, and on information provided to me by other members of the FBI. I have personally participated in the investigation of the offenses set forth below and, as a result of my participation and by review of evidence gathered in the case, I am familiar with the facts and

circumstances of this investigation. Since this Affidavit is being submitted for the limited purpose of supporting a criminal complaint, I have not included every fact resulting from the investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that MICHAEL LOMBARDO has violated Title 18, United States Code, Sections 2251(a) and 2252A(a)(2)(A), as set forth above.

5. On December 28, 2011, SA James Markovich of the Buffalo Division of the FBI spoke with a complainant alleging that MICHAEL LOMBARDO would be traveling from his home in Rome, New York to Ellicottville, New York for the purpose of having sex with a 15 year old female, hereinafter referred to as V-1, who was visiting from Indiana. Additionally, complainant alleged that V-1 has sent nude images of herself to LOMBARDO and has received nude images of LOMBARDO from him.
6. The complainant knows LOMBARDO because he is a musician and performs in public venues as well as on "YouTube".<sup>1</sup> The complainant reported that LOMBARDO has a following of female fans ranging from middle- school age to college age and often communicates with these fans, including the complainant, via the internet and cell phones. The complainant has also met LOMBARDO in person on several occasions.
7. On December 29, 2011, FBI Agents from the Buffalo Division traveled to Ellicottville, New York to interview V-1. On that date, Agents also interviewed V-2, a 17 year old female from Ohio, and V-3, a 17 year old female from Pennsylvania, who were traveling with V-1. All three girls reported to Agents, during their initial interviews in New York, and during subsequent interviews in their home states, that they had sent sexually explicit images and videos of themselves to LOMBARDO and received sexually explicit images of LOMBARDO from him. All three victims advised that they "met" LOMBARDO online because they were fans of his music.
8. V-1 reported that she "met" LOMBARDO online because she was a fan of his music. In the fall of 2010, LOMBARDO responded to a message V-1 left on his website, [michaellombardomusic.com](http://michaellombardomusic.com), and he and V-1 exchanged Skype<sup>2</sup> account information. V-1 and LOMBARDO began communicating regularly via Skype in the spring of 2011. Additionally, V-1 met LOMBARDO in person at concerts in Pittsburgh, Pennsylvania and Cleveland, Ohio in July of 2011. V-1 reported that she was 14 years old when she began sending nude images and videos of herself to Lombardo via Skype. V-1 reported to Agents that LOMBARDO asked her if she "liked taking orders" and would ask her to strip until she was completely nude. Once she was nude, LOMBARDO would direct V-1 to masturbate. V-1 used the built-in webcam on her computer to send images and videos to LOMBARDO over the internet, a means and facility of interstate or foreign commerce and in or affecting interstate commerce or foreign commerce.

<sup>1</sup> You Tube is a video-sharing website on which users can upload, view and share videos. You Tube Home Page, <http://www.youtube.com>.

<sup>2</sup> Skype is a voice-over-IP service that allows users to communicate with peers by voice, video, and instant messaging over the Internet and also includes file transfer, and videoconferencing features. Skype home page <http://www.skype.com>.

9. On December 30, 2011, your affiant executed a search warrant at the residence of MICHAEL LOMBARDO. The search warrant was signed on December 29, 2011, by the Honorable George Lowe. Several electronic devices and a cell phone were seized from LOMBARDO and subsequently sent to the FBI Computer Analysis Response Team (CART) lab in Linthicum, Maryland for analysis.
10. Your affiant has reviewed the CART lab results of the forensic examination conducted on an ASUS "eee" laptop computer belonging to LOMBARDO that was recovered from his bedroom. During the forensic examination of LOMBARDO's laptop, a video of V-1 masturbating was located. Specifically, the 51 second 2648 KB video shows V-1 sitting fully nude on a bed with her legs spread apart. The video shows V-1's body from approximately her mouth to her mid-thigh area, with the focal point of the video on her vagina. In the video, V-1 is rubbing her breasts with her right hand and using her left hand to fondle the outside of her vagina. V-1 subsequently inserts her finger into her vagina. The aforementioned video was sent to LOMBARDO by V-1, at his request, and received by LOMBARDO using a means and facility of interstate or foreign commerce, that is by a computer connected to the internet.
11. On March 15, 2012, your affiant interviewed a 16 year old female from New York, hereinafter V-4. V-4 stated that she met LOMBARDO because he worked at her school. V-4 reported that she and LOMBARDO would play a game over SMS<sup>3</sup> picture messaging by which they would exchange a series of pictures wearing less and less clothing to "see who would go farther." LOMBARDO would tell V-4 exactly what to send him. For example, LOMBARDO instructed V-4 to: "take your underwear off and show me" or "touch yourself and show me<sup>4</sup>." Additionally, V-4 reported that when she was hesitant to send LOMBARDO sexually explicit images of herself, he would instruct her to "do what I say." As a result, V-4 reported that she sent nude images of herself via SMS picture messages to LOMBARDO from approximately January to December of 2011, when she was 15 and 16 years old.
12. Your Affiant has reviewed the CART lab results of an SD card contained in a droid cell phone belonging to LOMBARDO, located in his bedroom. During the forensic examination of LOMBARDO's SD card, an image of V-4 masturbating was located. Specifically, the image shows V-4, from her neck to below her pubic region, lying on her back with her legs spread apart on a bed. V-4 is using her left hand to fondle her vagina. V-4 sent the aforementioned image to LOMBARDO, at his request, and was received by LOMBARDO using a means and facility of interstate or foreign commerce, that is by cellular telephone.
13. Based on the foregoing, and on my training, experience and participation in this and other investigations, I submit there is probable cause to believe that MICHAEL LOMBARDO employed, used, persuaded, induced, enticed or coerced a person under the age of 18 to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct, knowing or having reason to know that such visual depictions were produced using materials that


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<sup>3</sup> Short message service (SMS) is a text messaging service component of phone, web, or mobile communication systems.

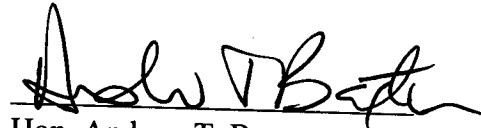
<sup>4</sup> V-4 reported that LOMBARDO meant for her to masturbate when he said "touch yourself."

have been mailed, shipped, or transported in interstate or foreign commerce by any means in violation of Title 18 United States Code, Section 2251(a); and has knowingly received child pornography using a means and facility of interstate and foreign commerce, and in and affecting such commerce, in violation Title 18 United States Code, Section 2252A(a)(2)(A).

Dated: July 20, 2012

  
Alix Skelton  
Special Agent  
Federal Bureau of Investigation

Sworn to before me this 20<sup>th</sup> day  
of July, 2012

  
Hon. Andrew T. Baxter  
United States Magistrate Judge